

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA,
ATLANTA DIVISION

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JAN 14 2019

JAMES N. HATTEN, Clerk
BY 
Deputy Clerk

RICARDO WILSON,

PLAINTIFF,

v.

CIVIL ACTION NO.
1:18-CV-5014-AT

ROBERT "R. Kelly" KELLY, RCA,
SONY MUSIC ENTERTAINMENT INC.,

DEFENDANTS,

AMENDED VIOLATION OF THE UNITED STATES COPYRIGHT LAWS,
SUPPORTING MEMORANDUM OF LAW AND REQUEST FOR HEARING

The plaintiff, Ricardo Wilson, respectfully requests this honorable court to grant his copyright claims pursuant to title 17 U.S.C. 102 (a), Chapter 5, Copyright Infringement and Remedies, request a hearing on the suit, and states:

JURISDICTION

Title U.S.C. 102 (a) holds that the court shall grant a judgement in a suit if the court determines that the judgement was rendered without jurisdiction, or that there has been such a denial

or infringement of the petitioner's constitutional rights as to render the judgement vulnerable to collateral attack.

VENUE

The plaintiff resides in the Northern District of Georgia and is living at 478 S. Atlanta St., Roswell, Georgia 30075. Therefore venue is appropriate in this district.

NATURE OF OFFENSE

The Defendants are music entertainment executives and an artist. The plaintiff is a freelance songwriter. An R&B song was written by the plaintiff Ricardo Wilson. The original song was titled "LOVE LETTER." The defendant, Robert Kelly is currently signed in a Recording contract with RCA records. Kelly was given permission to record the song but did not give Wilson any writing credits or compensation for his contributions to the song. The song was recorded and sold in the music entertainment market. The album was also nominated for an American Grammy Award.

Chapter 5 Copyright Infringement and Remedies states the Copyright protection under section [17 U.S.C. § 102 (a)]. Copyright protection subsist, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, or otherwise communicated, either directly, or with the aid of a machine or device. Work of authorship include (1) literary works; and (2) musical works, including any accompanying music. If a publisher gives a song to an artist for a joint venture, it is

copyright infringement if the artist accepts the song, change the words and publish the song.

ARGUMENT

Wilson alleged that Robert "R. Kelly" Kelly recorded and released "LOVE LETTER" a song he wrote and to which he holds the copyright, without permission. The complaint is copyright infringement. The main issue is whether or not Kelly was wrong for putting the record on an album without having purchased the song through the proper channels. Robert Kelly is a multi-platinum, Grammy Award winning recording artist. Ricardo Wilson is an r&b/pop songwriter, music producer, and rap artist. He claims that he composed "LOVE LETTER", an R&B song in 2008. The song "LOVE LETTER" has sold millions of digital downloads and copies and is being performed in concerts by Kelly. The recordings were put out by Jive Records, a unit of Sony Music Entertainment. This lawsuit concerns those recordings.

The ownership history of the "LOVE LETTER" copyright is plain to see. Wilson and R. Kelly's manager, Renaldo Parker was serving prison time in Manchester, Kentucky's federal prison for unrelated charges. Parker and Wilson were neighbors in the same prison unit. Parker was informed about Wilson's writing potential and approached Wilson about sending songs to R. Kelly. Wilson agreed, but not before filing for the valid and registered copyrights. (**Exhibit's (A) and (B)**). Wilson was transferred to Pollock, Louisiana's federal prison before he heard the song "LOVE LETTER" being broadcasted nationally on the radio. **Desny v. Wilder, 46 (A) 2d 715, 299 p. 2d 257.** The Supreme

Court recognized and implied contractual right to compensation when a writer submits material to a producer with the understanding that the writer will be paid if the producer uses the material. **Slaughter v.**

Raymond 9th district 2011. Usher Raymond created the songs concept and title, Dupri and Cox co-produced it, and all three contributed to it's music and lyrics. Wilson created the song's title, concept, cadence, and some of the words. Kelly changed a lot of the words and kept the cadence and title. Which is also the title of the album (LOVE LETTER). An infringer cannot excuse the wrong by showing how much of his work he did not pirate. "It is enough that substantial parts were lifted. **Erickson v. Trinity Theatre Inc.** F.3d 1061, 1068. Even if a person's contribution is minor, he enjoys all benefits of joint authorship.

DISTRIBUTION LIABILITY

Clive Calder and Ralph Simon are the founders of Zomba Group and it's subsidiary company Jive Records. Jive Records was formed in 1981. Calder sold Zomba in 2002 for \$2.74 billion to German media group Bertelsmann. Calder left the music business in 2003.

RCA is an American record label owned by Sony Music Entertainment (SME), a subsidiary of Sony Corporation. In 2004, Sony Music and Bertelsmann, established a 50-50 joint venture known as Sony BMG Music Entertainment, which transferred the businesses of Sony Music and Bertelsmann Music Group (BMG) into one entity. However, in 2008, Sony acquired Bertelsmann's stake, and the company reverted to the SME name shortly after; the buyout allowed Sony to

acquire all of BMG's record labels, and led to the dissolution of BMG.

17 U.S. Code § 504 (b) Remedies for infringement: Damages and profits

According to the RIAA (Recording Industry Association of America) in 2010 Jive Records distributed and financed the album LOVE LETTER by R. Kelly, under the direction of the head of RCA/Jive Label group at the time, Barry Weiss.

2011 the Love Letter album was certified gold selling 500,000 copies. October 7th, 2011 RCA closed Jive, Arista, and the J label imprints subsidiaries, a move by new label executives to strengthen the identity of the RCA brand. Artists who signed contracts with these three imprints were shifted to RCA. R. Kelly was one of the artists.

In 2011, RCA records bought Jive Records. Sony music remains the parent company to RCA in 2019.

In 2011, R. Kelly recorded a second album birthed from the LOVE LETTER album entitled WRITE ME BACK. That album was financed and distributed by RCA and Sony Music Entertainment as well. Plaintiff is seeking \$5 million in damages and profit. **Williams v. Gaye, No. 15-56880 (9th cir. 2018)**. The District court's award of actual damages, infringer's profits, and it's running royalty were proper.

The cadence came into fruition while Plaintiff was incarcerated in Manchester, Kentucky's federal prison. Wilson wrote music to mentally escape the anguish of confinement. He signed 3 minor recording contracts while serving his sentence (**Exhibit C**).

Artistically, the Plaintiff would produce a harmony from surrounding sounds by humming to him self a rearranged melody, which would give him the rhythm to write the lyrics and compositions. Copyright does not prevent subsequent users from copying from a prior author's work those constituent elements that are not original--for example--facts, or materials in the public domain--as long as such use does not unfairly appropriate the Author's original contributions. [471 U.S., at 547-548] **Feist Publications, Inc., 499 U.S. at 361, 111 S. Ct. at 1296, 113 L. Ed. 2d 358.**

After Wilson and R. Kelly's collaboration on the LOVE LETTER song. Wilson goes on to compose over 300 more R&B and pop songs with plans to present them to R. Kelly upon his release. [**THE SONGWRITER'S BIBLE-SONGBOOK 130] (EXHIBIT D)**.

In 2009, Renaldo Parker directed Wilson to the institutional pay phone to join in on a call engaged with R. Kelly's business associate named Tom Tom. Renaldo informed Wilson that Tom Tom was currently visiting a recording studio with R. Kelly where he recently gave him the package with the Plaintiff's sheet lyrics inside. Once on the call, Tom Tom confirms with Wilson that R. Kelly has the written material and is very satisfied with the works. Tom Tom asked Wilson, "Which one do you like the most?" Wilson replied. "LOVE LETTER." Tom Tom asked Wilson to sing the song. Wilson replied, "I cannot sing, I repeat, I cannot sing. I wish I could. I only write. But here's the cadence." At that instant, the Plaintiff modulated his voice over the pay phone. Tom Tom approved then assured Wilson that he would be in

contact with him and Parker. Shortly afterwards they ended the call. The greater the showing of access the lesser the showing of substantial similarity is required. **Swirsky 376 F.3d at 844.** **Three Boys Music, 212 F.3d at 485.**

While leaving the institutional pay phone area, Parker inquired about the copyrights. Wilson informed Parker that he's in the process of securing the registered copyright, valid copyright, and "Poor Man's" copyright for extra security if needed. Parker agreed, before making a public announcement to several inmates in the prison dormitory that Wilson has just written a song for R. Kelly. The district court ruled that the 1909 Act protected only the deposit copy of "Got To Give It Up," and excluded the sound recording from consideration. **Williams v. Gaye. No 15-56880 (9th cir. 2018)** Wilson contest that the cadence he translated over the phone to Tom Tom is the same melody that R. Kelly chants in the opening of the recorded song LOVE LETTER, which was released under Jive/RCA in 2010, and is continually owned by Sony Music Entertainment. Renaldo Parker confirms R. Kelly's access to the sheet lyrics and song LOVE LETTER during a conversation with the Plaintiff in the film documentary **Ten In The Feds**, produced by Wilson. (**Exhibit E**)

Once the Plaintiff was released from prison he received several calls from Parker. Parker consistently informed Wilson that he would be compensated for the song, album title, tour, digital downloads, etc. and everything else derived from the original lyrics and song

LOVE LETTER. In due course, Parker would refuse to return any of the Plaintiff's phone calls, which moved Wilson to seek legal guidance from Georgia Lawyer of the Arts.

Attorney Christopher Troutman was assigned to the case, but was unable to proceed into the litigation process. Troutman was able to contact R. Kelly's business manager Derrel McDavid. Troutman informed Wilson that he knew who Renaldo Parker was and that Derrel McDavid stated over the phone, "Why did he secure counsel, R. Kelly is going to pay him?" Troutman responded, "My client has been calling and leaving messages for almost a year and no one will return his call." **(Exhibit F)**

In the Inverse Ratio Rule it states: The greater the showing of access, the lesser showing of similarity is required. Williams and Thicke readily admitted at trial that they had a high degree of access to "Got To Give It Up." **Williams v. Gaye, No. 15-56880 (9th cir. 2018)**

At one point of the defendant's career, Renaldo Parker acted as R. Kelly's manager. He acquired many industry connections. And once Wilson entered the Atlanta Half Way house, Renaldo made a few phone calls to connect the Plaintiff with industry executive John Monopoly (an entertainment agent/manager for artists) to act as Wilson's manager, once the split sheets were produced. Wilson and Monopoly spoke on the phone several times. The connection was for Wilson to obtain a publishing deal at a major record label,

with Monopoly as his representation.

The Plaintiff regresses on the shadiness of the record industry and how the "Rumor In The Music Industry," is that most record companies would rather steal a person's music or sample it, rather than ask for permission because when you ask for permission up front the original author or producer will set the price high. This allows most companies to steal material because it's cheaper to settle out of court." (Ten In The Feds Documentary.) "Exploit now, pay later if at all." **Chesney "Chet" Baker Estate v. Sony BMG Music (Canada) 17 U.S.C. § 504 (b)**. It involves the record labels to create, press, distribute and sell the records, but do not obtain the necessary copyright licenses. The main point of contention was whether Rick Ross had made it clear that using the word "mastermind" naturally included musicians. Court reversed the ruling. **Caiz v. Roberts, II, No. 17-55051 (9th Cir. 2018)**.

Wilson continues that Multi-platinum songs are composed by ghost writers and songwriters who collaborate with multi-platinum singers and artists more often. Even if the writer's contribution was minor he enjoys all benefits from joint authorship. The Gaye's don't contend that every aspect of "Blurred Lines" infringes "Got To Give It Up." Rather, they identify only a few features that are present in both works. **Williams v. Gaye, No. 15-56880 (9th cir. 2018)**

Mr. Robert Kelly is the self-proclaimed "Pied Piper" of R&B and has a reputation for writing music about the things that he actually

does. He recently made a national statement that he never learned to read or write. The song LOVE LETTER is about an individual actually writing a letter to a personal pen pal while exercising and reciprocating basic writing structure, and skill that requires fundamental reading composition. It's a quality that many of the Bureau Of Prison's inmate population posses.

**REQUEST FOR A HEARING
(IF NEEDED)**

The petitioner respectfully requests that this Honorable Court grant a hearing on the issues presented in this motion.

CONCLUSION

In light of the foregoing facts and arguments, petitioner respectfully requests that this Honorable Court grant his copyright claims.

Respectfully Submitted,

Ricardo Wilson

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Exhibit A – Copyright Certificate

Exhibit B – Valid Copyrights

Exhibit C – Recording Contracts

Exhibit D – Book Manuscript

Exhibit F – Documentary Film

Exhibit G – Photos

Exhibit H –Testimonial Witnesses